

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## SENATE ENROLLED ACT No. 312

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AN ACT to amend the Indiana Code concerning gaming.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 4-30-5-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 6. If a person files a petition to assign a lottery prize payment under IC 34-28-9.2 and the person has had debts to a state agency, the director shall:**

**(1) investigate whether the person has any outstanding debts to a state agency; and**

**(2) submit a letter, within fifteen (15) days after receiving the petition, to the petitioner and the court in which the petition is filed that:**

**(A) references the cause number of the petition to assign a lottery prize payment; and**

**(B) states whether the person has or has not satisfied debts to a state agency.**

SECTION 2. IC 4-30-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 2. (a) Except as provided in section 2.5 of this chapter, the right of any person to a prize is not assignable.**

**(b) A prize may be paid to the estate of a deceased prize winner or to a person designated under an appropriate judicial order.**

SECTION 3. IC 4-30-11-2.5 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 2.5. (a) The right of a person to a prize is assignable if the prize is paid by the commission in installments over time.**

**(b) A prize described in subsection (a) may be assigned, in whole or in part, if the assignment is made to a person or entity approved by a court based on a petition filed under IC 34-28-9.2.**

**(c) A prize payment may not be assigned to more than three (3) individuals or entities and a prize winner may not initiate more than three (3) assignment transactions in any single year.**

**(d) If more than one (1) person owns a prize payment, any assignment of the prize payment or payments must be made by each of the individuals who own the prize payment or payments.**

**(e) A prize payment or payments cannot be assigned until all debts listed in section 11 of this chapter are satisfied.**

**(f) A prize payment or any portion of a prize payment may not be assigned more than three (3) times unless the commission consents to an additional assignment. An assignment and reassignment of a prize payment or payments to one (1) individual or entity under a court order entered under a petition filed under IC 34-28-9.2 shall be considered a single assignment.**

**(g) The commission may charge a reasonable fee to the assignee to defray the cost of any administrative expenses associated with assignments approved by a court under IC 34-28-9.2. The fee may include the cost to the commission of a reasonable processing fee charged by a private annuity provider based on the direct and indirect costs of processing the assignment.**

**(h) A person who enters into a contract to assign a prize payment or payments under this section may cancel the contract assigning the person's prize payment or payments within three (3) business days after the date the contract assigning the prize payment or payments is signed.**

**(i) A contract assigning a prize payment or payments under this section and entered into before July 1, 2014, is unenforceable and invalid.**

**SECTION 4. IC 4-30-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. The commission is discharged of all liability upon payment of a prize **payments**, including a prize payments that has been assigned under section 2.5 of this chapter.**

**SECTION 5. IC 4-30-11-11, AS AMENDED BY P.L.172-2011, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) As used in this section, "debt" means an**



**obligation that is evidenced by an assessment or lien issued by a state agency, a judgment, or a final order of an administrative agency.**

~~(a)~~ **(b)** The treasurer of state, the department of state revenue, the department of administration, the Indiana department of transportation, the attorney general, **the department of child services**, and the courts shall identify to the commission, in the form and format prescribed by the commission and approved by the auditor of state, a person who:

- (1) owes an outstanding debt to a state agency;
- (2) is on the department of state revenue's most recent tax warrant list; or
- (3) owes **past due** child support collected and paid to a recipient through a court.

~~(b)~~ **(c)** Before the payment of a prize of more than five hundred ninety-nine dollars (\$599) to a claimant identified under subsection ~~(a)~~; **(b)**, the commission shall deduct the amount of the obligation from the prize money and transmit the deducted amount to the auditor of state. The commission shall pay the balance of the prize money to the prize winner after deduction of the obligation. If a prize winner owes multiple obligations subject to offset under this section and the prize is insufficient to cover all obligations, the amount of the prize shall be applied as follows:

- (1) First, to the child support obligations **past due and** owed by the prize winner that are collected and paid to a recipient through a court.
- (2) Second, to judgments owed by the prize winner.
- (3) Third, to tax liens owed by the prize winner.
- (4) Fourth, to unsecured debts owed by the prize winner **to a state agency**.

Within each of the categories described in subdivisions (1) through (4), the amount and priority of the prize shall be applied in the manner that the auditor of state determines to be appropriate. The commission shall reimburse the auditor of state pursuant to an agreement under IC 4-30-15-5 for the expenses incurred by the auditor of state in carrying out the duties required by this section.

~~(c) As used in this section, "debt" means an obligation that is evidenced by an assessment or lien issued by a state agency; a judgment; or a final order of an administrative agency.~~

SECTION 6. IC 34-28-9.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

#### **Chapter 9.2. Assignment of Lottery Prizes**

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**Sec. 1. (a) As set forth in IC 4-30-11-2.5, a person who has won a prize from the state lottery commission created under IC 4-30-3 may file a verified petition with the Marion circuit court to approve the assignment of a prize payment or payments.**

**(b) A verified petition filed under this section must include:**

- (1) statements that the person understands:**
  - (A) the assignment of the prize payment or payments is voluntary; and**
  - (B) their right to solicit multiple bids for their prize payments;**
- (2) a statement explaining to whom the prize payment or payments would be assigned;**
- (3) a statement that the person is of sound mind, is in full command of the person's faculties, and is not acting under duress;**
- (4) a statement detailing that the person has had the opportunity to receive or has received legal, financial, and tax advice from a person or entity other than the person or entity that would be assigned the prize payment or payments;**
- (5) a statement that the person understands that the person will not receive the future payment or payments of the prize after a prize payment or prize payments are assigned;**
- (6) a statement that the person understands that, with regard to the assigned payments of the prize, the state lottery commission and its employees are not liable to make any future payments to the person that are subject to an assignment made under IC 4-30-11-2.5;**
- (7) a statement that the person understands that the person may cancel the contract assigning the person's prize payment or payments within three (3) business days after the date the contract assigning the prize payment or payments is signed;**
- (8) details of the proposed assignment, including:**
  - (A) the amount of the prize payments assigned;**
  - (B) the dates the prize payments are assigned;**
  - (C) the purchase price of the prize payments assigned;**
  - (D) the rate of discount to present value, assuming daily compounding and funding on the contract date; and**
  - (E) the amount, if any, of any origination or closing fees charged to the person;**
- (9) a statement detailing whether the person:**
  - (A) owes child support;**
  - (B) owes money as part of a judgment or garnishment;**



- (C) has not satisfied an order for criminal restitution; or
- (D) owes any debt to an Indiana state agency that has provided written notice to the person regarding the debt;
- (10) a sworn affirmation that the contents of the petition are true; and
- (11) a statement that the person has had an adequate opportunity to receive multiple bids to assign their prize payment or payments.

**Sec. 2.** If a petition filed under section 1 of this chapter indicates that the petitioner has one (1) or more current child support obligations and the Title IV-D agency has entered an appearance:

- (1) the court shall consider ordering the petitioner to secure a bond under IC 31-16-3.5 for the purpose of insuring the future payment of child support obligations; and
- (2) if the purchase price of the payments assigned under section (1)(b)(8) is insufficient to secure a child support bond, then the court shall consider denying the petition.

**Sec. 3.** If a court finds that a prize payment or payments from the state lottery commission may be assigned based on a petition filed under section 1 of this chapter and IC 4-30-11-2.5, the court shall issue an order approving the prize payment assignment. The order must include a statement that the petitioner:

- (1) has filed a verified petition under section 1 of this chapter;
- (2) understands:
  - (A) the assignment of the prize payment or payments is voluntary;
  - (B) to whom the prize payment or payments will be assigned;
  - (C) the person will not receive future payments that are subject to an assignment made under IC 4-30-11-2.5;
  - (D) the state lottery commission and its employees are not liable to make any prize payments to the person that are assigned to another individual or entity under IC 4-30-11-2.5; and
  - (E) that the person may cancel the contract assigning the person's prize payment or payments within three (3) business days after the date the contract assigning the prize payment or payments is signed;
- (3) is of sound mind, is in full command of the person's faculties, and is not acting under duress;
- (4) has received or has had the opportunity to receive legal, financial, and tax advice from a person or entity other than



the person or entity that would be assigned the prize payment or payments;

(5) has no debts to state agencies or has satisfied all past debts to state agencies; and

(6) has received, prior to signing the contract assigning the prize payment or payments, a written disclosure statement, on a separate piece of paper, in bold type with a font at least fourteen (14) points, stating the details of the proposed assignment, including:

(A) the amount of the prize payment or payments assigned;

(B) the dates of the prize payment or payments assigned;

(C) the purchase price of the prize payment or payments assigned;

(D) the rate of discount to present value, assuming daily compounding and funding on the contract date; and

(E) the amount, if any, of any origination or closing fees charged to the person.

**Sec. 4.** A person filing a petition under this chapter shall serve a copy of the petition on the state lottery commission's director and the child support bureau established by IC 31-25-3-1.

**Sec. 5.** If a court schedules a hearing on a petition filed under this chapter, the court shall notify the state lottery commission's director, the child support bureau established by IC 31-25-3-1, and the petitioner at least twenty (20) days before the hearing date.

**Sec. 6. (a)** The state lottery commission and the child support bureau established by IC 31-25-3-1 are not required to respond to a petition filed under this chapter.

**(b)** The state lottery commission and the child support bureau established by IC 31-25-3-1 may file a response to a petition filed under this chapter and may participate in any hearings, if any, on petitions filed under this chapter.

**Sec. 7.** If a court approves a prize payment assignment under this chapter, the court shall provide a copy of the order to the state lottery commission within twenty (20) days of the order being entered and at least thirty (30) days before the first assigned payment is to be made to the assignee.

**Sec. 8.** The person to whom a prize payment or payments from the state lottery commission is assigned must provide the information that the state lottery commission determines is necessary to make the assignment of the prize payment or payments, including the person's correct name, the person's appropriate address, and the necessary tax identification numbers



and information.

**Sec. 9. (a)** If the Internal Revenue Service or a court issues a determination letter, revenue ruling, other public ruling of the Internal Revenue Service, or a published decision to the commission or any lottery winner, declaring that the voluntary assignment of prizes will affect the federal income tax treatment of a prize winner who does not assign the winner's prize payment or payments, the state lottery commission shall file a copy of the letter, ruling, or decision with the attorney general's office and the Indiana judicial center. A court may not issue an order authorizing a voluntary assignment of a prize after the date the ruling, letter, or published decision is filed.

**(b)** If a determination letter, revenue ruling, other public ruling, or published decision is issued under subsection (a), the Internal Revenue Service or the court that issued the document shall send a certified copy of the document to the director of the commission.

**Sec. 10.** If the department of state revenue issues a determination, ruling, or finding to the commission or any lottery winner declaring that the voluntary assignment of a prize will reduce the state income tax due on the prize, the department of state revenue shall file the determination, ruling, or finding with the lottery commission, the attorney general's office, and the Indiana judicial center. A court may not issue an order authorizing a voluntary assignment of a prize after the date the determination, ruling, or finding is filed.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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